

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 434

Representative Yuko

**Cosponsors: Representatives Hagan, Foley, Letson, Luckie, Phillips, Harris,
Domenick**

—

A BILL

To amend sections 4141.28, 4141.301, and 4141.35 and 1
to enact sections 4143.01 to 4143.09 of the 2
Revised Code to require certain employers to give 3
advanced notice of mass layoffs, worksite 4
closings, and transfers of operation. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4141.28, 4141.301, and 4141.35 be 6
amended and sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 7
4143.06, 4143.07, 4143.08, and 4143.09 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4141.28. 10

BENEFITS 11

(A) FILINGS 12

Applications for determination of benefit rights and claims 13
for benefits shall be filed with the director of job and family 14
services. Such applications and claims also may be filed with an 15
employee of another state or federal agency charged with the duty 16
of accepting applications and claims for unemployment benefits or 17
with an employee of the unemployment insurance commission of 18

Canada. 19

When an unemployed individual files an application for 20
determination of benefit rights, the director shall furnish the 21
individual with an explanation of the individual's appeal rights. 22
The explanation shall describe clearly the different levels of 23
appeal and explain where and when each appeal must be filed. 24

(B) APPLICATION FOR DETERMINATION OF BENEFIT RIGHTS 25

In filing an application, an individual shall furnish the 26
director with the name and address of the individual's most recent 27
separating employer and the individual's statement of the reason 28
for separation from the employer. The director shall promptly 29
notify the individual's most recent separating employer of the 30
filing and request the reason for the individual's unemployment, 31
unless that notice is not necessary under conditions the director 32
establishes by rule. The director may request from the individual 33
or any employer information necessary for the determination of the 34
individual's right to benefits. The employer shall provide the 35
information requested within ten working days after the request is 36
sent. If necessary to ensure prompt determination and payment of 37
benefits, the director shall base the determination on the 38
information that is available. 39

An individual filing an application for determination of 40
benefit rights shall disclose, at the time of filing, whether or 41
not the individual owes child support obligations. 42

(C) ~~MASS LAYOFFS~~ 43

~~An employer who lays off or separates within any seven day 44
period fifty or more individuals because of lack of work shall 45
furnish notice to the director of the dates of layoff or 46
separation and the approximate number of individuals being laid 47
off or separated. The notice shall be furnished at least three 48
working days prior to the date of the first day of such layoff or 49~~

~~separation. In addition, at the time of the layoff or separation 50
the employer shall furnish to the individual and to the director 51
information necessary to determine the individual's eligibility 52
for unemployment compensation. 53~~

~~(D)~~ DETERMINATION OF BENEFIT RIGHTS 54

The director shall promptly examine any application for 55
determination of benefit rights. On the basis of the information 56
available to the director under this chapter, the director shall 57
determine whether or not the application is valid, and if valid, 58
the date on which the benefit year shall commence and the weekly 59
benefit amount. The director shall promptly notify the applicant, 60
employers in the applicant's base period, and any other interested 61
parties of the determination and the reasons for it. In addition, 62
the determination issued to the claimant shall include the total 63
amount of benefits payable. The determination issued to each 64
chargeable base period employer shall include the total amount of 65
benefits that may be charged to the employer's account. 66

~~(E)~~(D) CLAIM FOR BENEFITS 67

The director shall examine the first claim and any additional 68
claim for benefits. On the basis of the information available, the 69
director shall determine whether the claimant's most recent 70
separation and, to the extent necessary, prior separations from 71
work, allow the claimant to qualify for benefits. Written notice 72
of the determination granting or denying benefits shall be sent to 73
the claimant, the most recent separating employer, and any other 74
employer involved in the determination, except that written notice 75
is not required to be sent to the claimant if the reason for 76
separation is lack of work and the claim is allowed. 77

If the director identifies an eligibility issue, the director 78
shall send notice to the claimant of the issue identified and 79
specify the week or weeks involved. The claimant has a minimum of 80

five business days after the notice is sent to respond to the 81
information included in the notice, and after the time allowed as 82
determined by the director, the director shall make a 83
determination. The claimant's response may include a request for a 84
fact-finding interview when the eligibility issue is raised by an 85
informant or source other than the claimant, or when the 86
eligibility issue, if determined adversely, disqualifies the 87
claimant for the duration of the claimant's period of 88
unemployment. 89

When the determination of a continued claim for benefits 90
results in a disallowed claim, the director shall notify the 91
claimant of the disallowance and the reasons for it. 92

~~(F)~~(E) ELIGIBILITY NOTICE 93

Any base period or subsequent employer of a claimant who has 94
knowledge of specific facts affecting the claimant's right to 95
receive benefits for any week may notify the director in writing 96
of those facts. The director shall prescribe a form for such 97
eligibility notice, but failure to use the form shall not preclude 98
the director's examination of any notice. 99

To be considered valid, an eligibility notice must: contain 100
in writing, a statement that identifies either a source who has 101
firsthand knowledge of the information or an informant who can 102
identify the source; provide specific and detailed information 103
that may potentially disqualify the claimant; provide the name and 104
address of the source or the informant; and appear to the director 105
to be reliable and credible. 106

An eligibility notice is timely filed if received or 107
postmarked prior to or within forty-five calendar days after the 108
end of the week with respect to which a claim for benefits is 109
filed by the claimant. An employer who timely files a valid 110
eligibility notice shall be an interested party to the claim for 111

benefits which is the subject of the notice. 112

The director shall consider the information contained in the 113
eligibility notice, together with other available information. 114
After giving the claimant notice and an opportunity to respond, 115
the director shall make a determination and inform the notifying 116
employer, the claimant, and other interested parties of the 117
determination. 118

~~(G)~~(F) CORRECTED DETERMINATION 119

If the director finds within the fifty-two calendar weeks 120
beginning with the Sunday of the week during which an application 121
for benefit rights was filed or within the benefit year that a 122
determination made by the director was erroneous due to an error 123
in an employer's report or any typographical or clerical error in 124
the director's determination, or as shown by correct remuneration 125
information received by the director, the director shall issue a 126
corrected determination to all interested parties. The corrected 127
determination shall take precedence over and void the prior 128
determination of the director. The director shall not issue a 129
corrected determination when the commission or a court has 130
jurisdiction with respect to that determination. 131

~~(H)~~(G) EFFECT OF COMMISSION DECISIONS 132

In making determinations, the director shall follow decisions 133
of the unemployment compensation review commission which have 134
become final with respect to claimants similarly situated. 135

~~(I)~~(H) PROMPT PAYMENTS 136

If benefits are allowed by the director, a hearing officer, 137
the commission, or a court, the director shall pay benefits 138
promptly, notwithstanding any further appeal, provided that if 139
benefits are denied on appeal, of which the parties have notice 140
and an opportunity to be heard, the director shall withhold 141
payment of benefits pending a decision on any further appeal. 142

Sec. 4141.301. (A) As used in this section, unless the	143
context clearly requires otherwise:	144
(1) "Extended benefit period" means a period which:	145
(a) Begins with the third week after a week for which there	146
is a state "on" indicator; and	147
(b) Ends with either of the following weeks, whichever occurs	148
later:	149
(i) The third week after the first week for which there is a	150
state "off" indicator; or	151
(ii) The thirteenth consecutive week of such period.	152
Except, that no extended benefit period may begin by reason	153
of a state "on" indicator before the fourteenth week following the	154
end of a prior extended benefit period which was in effect with	155
respect to this state.	156
(2) There is a "state 'on' indicator" for this state for a	157
week if the director of job and family services determines, in	158
accordance with the regulations of the United States secretary of	159
labor, that for the period consisting of such week and the	160
immediately preceding twelve weeks, the rate of insured	161
unemployment, not seasonally adjusted, under Chapter 4141. of the	162
Revised Code:	163
(a) Equaled or exceeded one hundred twenty per cent of the	164
average of such rates for the corresponding thirteen-week period	165
ending in each of the preceding two calendar years and equaled or	166
exceeded five per cent;	167
(b) For weeks of unemployment such rate of insured	168
unemployment:	169
(i) Met the criteria set forth in division (A)(2)(a) of this	170
section; or	171

(ii) Equaled or exceeded six per cent.	172
(3)(a) For weeks of unemployment beginning on or after	173
February 22, 2009, there is a "state 'on' indicator" for this	174
state for a week if the director determines both of the following	175
are satisfied:	176
(i) That the average rate of total unemployment, seasonally	177
adjusted, as determined by the United States secretary of labor,	178
for the period consisting of the most recent three months for	179
which data for all states are published before the close of that	180
week equals or exceeds six and one-half per cent;	181
(ii) That the average rate of total unemployment, seasonally	182
adjusted, as determined by the United States secretary of labor,	183
for the three-month period described in division (A)(3)(a)(i) of	184
this section, equals or exceeds one hundred ten per cent of the	185
average for either or both of the corresponding three-month	186
periods ending in the two preceding calendar years.	187
(b) Division (A)(3) of this section is effective on and after	188
February 22, 2009, and shall cease to be effective either on	189
December 6, 2009, or until the close of the last day of the week	190
ending three weeks prior to the last week for which federal	191
sharing is authorized under Section 2005(a) of the "American	192
Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123	193
Stat. 115, whichever is later.	194
(4) A "state 'off' indicator" exists for the state for a week	195
if the director determines, in accordance with the regulations of	196
the United States secretary of labor, that for the period	197
consisting of such week and the immediately preceding twelve	198
weeks, the rate of insured unemployment, not seasonally adjusted,	199
under Chapter 4141. of the Revised Code:	200
(a) Was less than one hundred twenty per cent of the average	201
of such rates for the corresponding thirteen-week period ending in	202

each of the preceding two calendar years and was less than five	203
per cent;	204
(b) For weeks of unemployment such rate of insured	205
unemployment:	206
(i) Was less than six per cent; and	207
(ii) Met the criteria set forth in division (A)(4)(a) of this	208
section.	209
(5) For weeks of unemployment beginning on or after February	210
22, 2009, there is a "state 'off' indicator" for this state for a	211
week if the director determines, in accordance with the	212
regulations adopted by the United States secretary of labor, that	213
for the period consisting of that week and the immediately	214
preceding twelve weeks, the total rate of unemployment, seasonally	215
adjusted, under this chapter, was less than one hundred ten per	216
cent of such average for either or both of the corresponding	217
three-month periods ending in the two preceding calendar years,	218
and was less than six and one-half per cent.	219
(6) "Rate of insured unemployment," for purposes of divisions	220
(A)(2) and (4) of this section, means the percentage derived by	221
dividing:	222
(a) The average weekly number of individuals filing claims	223
for regular compensation in this state for weeks of unemployment	224
with respect to the most recent thirteen-consecutive-week period,	225
as determined by the director on the basis of the director's	226
reports to the United States secretary of labor, by	227
(b) The average monthly employment covered under Chapter	228
4141. of the Revised Code, for the first four of the most recent	229
six completed calendar quarters ending before the end of such	230
thirteen-week period.	231
(7) "Regular benefits" means benefits payable to an	232

individual, as defined in division (C) of section 4141.01 of the Revised Code, or under any other state law, including dependents' allowance and benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, other than extended benefits, and additional benefits as defined in division (A)(12) of this section.

(8) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, and additional benefits, payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period.

(9) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year which begin in an extended benefit period and, if the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to the week, all of the regular benefits that were available to the individual under Chapter 4141. of the Revised Code, or any other state law, including dependents' allowance and benefits payable to federal civilian employees and ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in the individual's current benefit year that includes the week;

(b) Has received, prior to the week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and regular benefits available to federal civilian employees and

ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 264
585, 5 U.S.C.A. 8501, in the individual's current benefit year 265
that includes the week, after the cancellation of some or all of 266
the individual's wage credits or the total or partial reduction of 267
the individual's right to regular benefits, provided that, for the 268
purposes of divisions (A)(10)(a) and (10)(b) of this section, an 269
individual shall be deemed to have received in the individual's 270
current benefit year all of the regular benefits that were either 271
payable or available to the individual even though: 272

(i) As a result of a pending appeal with respect to wages or 273
employment, or both, that were not included in the original 274
monetary determination with respect to the individual's current 275
benefit year, the individual may subsequently be determined to be 276
entitled to more regular benefits, or 277

(ii) By reason of section 4141.33 of the Revised Code, or the 278
seasonal employment provisions of another state law, the 279
individual is not entitled to regular benefits with respect to the 280
week of unemployment, although the individual may be entitled to 281
regular benefits with respect to future weeks of unemployment in 282
either the next season or off season in the individual's current 283
benefit year, and the individual is otherwise an "exhaustee" 284
within the meaning of this section with respect to the right to 285
regular benefits under state law seasonal employment provisions 286
during either the season or off season in which that week of 287
unemployment occurs, or 288

(iii) Having established a benefit year, no regular benefits 289
are payable to the individual during the year because the 290
individual's wage credits were cancelled or the individual's right 291
to regular benefits was totally reduced as the result of the 292
application of a disqualification; or 293

(c) The individual's benefit year having expired prior to the 294
week, has no, or insufficient, wages or weeks of employment on the 295

basis of which the individual could establish in any state a new 296
benefit year that would include the week, or having established a 297
new benefit year that includes the week, the individual is 298
precluded from receiving regular benefits by reason of a state law 299
which meets the requirements of section 3304 (a)(7) of the 300
"Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301 to 301
3311; and 302

(i) Has no right for the week to unemployment benefits or 303
allowances, as the case may be, under the Railroad Unemployment 304
Insurance Act, the Trade Act of 1974, and other federal laws as 305
are specified in regulations issued by the United States secretary 306
of labor; and 307

(ii) Has not received and is not seeking for the week 308
unemployment benefits under the unemployment compensation law of 309
the Virgin Islands, prior to the day after that on which the 310
secretary of labor approves the unemployment compensation law of 311
the Virgin Islands, or of Canada; or if the individual is seeking 312
benefits and the appropriate agency finally determines that the 313
individual is not entitled to benefits under the law for the week. 314

(11) "State law" means the unemployment insurance law of any 315
state, approved by the United States secretary of labor under 316
section 3304 of the Internal Revenue Code of 1954. 317

(12) "Additional benefits" means benefits totally financed by 318
a state and payable to exhaustees by reason of high unemployment 319
or by reason of other special factors under the provisions of any 320
state law. 321

(B) Except when the result would be inconsistent with the 322
other provisions of this section, as provided in the regulations 323
of the director, the provisions of Chapter 4141. of the Revised 324
Code, which apply to claims for, or the payment of, regular 325
benefits, shall apply to claims for, and the payment of, extended 326

benefits. 327

(C) Any individual shall be eligible to receive extended 328
benefits with respect to any week of unemployment in the 329
individual's eligibility period only if the director finds that, 330
with respect to such week: 331

(1) The individual is an "exhaustee" as defined in division 332
(A)(10) of this section; and 333

(2) The individual has satisfied the requirements of Chapter 334
4141. of the Revised Code, for the receipt of regular benefits 335
that are applicable to individuals claiming extended benefits, 336
including not being subject to a disqualification for the receipt 337
of benefits. 338

(D) The weekly extended benefit amount payable to an 339
individual for a week of total unemployment in the individual's 340
eligibility period shall be the same as the weekly benefit amount 341
payable to the individual during the individual's applicable 342
benefit year. 343

(E) Except as provided in division (F) of this section, the 344
total extended benefit amount payable to any eligible individual 345
with respect to the individual's applicable benefit year shall be 346
the lesser of the following amounts: 347

(1) Fifty per cent of the total amount of regular benefits, 348
including dependents' allowances which were payable to the 349
individual under Chapter 4141. of the Revised Code, in the 350
individual's applicable benefit year; 351

(2) Thirteen times the individual's weekly benefit amount, 352
including dependents' allowances, which was payable to the 353
individual under Chapter 4141. of the Revised Code, for a week of 354
total unemployment in the applicable benefit year; provided, that 355
in making the computation under divisions (E)(1) and (2) of this 356
section, any amount which is not a multiple of one dollar shall be 357

rounded to the next lower multiple of one dollar. 358

(F) For purposes of this division, "high-unemployment period" 359
means a period during which an extended benefit period would be in 360
effect if division (A)(3)(a)(i) of this section were applied by 361
substituting "eight per cent" for "six and one-half per cent." 362

Effective with respect to weeks beginning in a 363
high-unemployment period, the total extended benefit amount 364
payable to an eligible individual with respect to the applicable 365
benefit year shall be the lesser of the following amounts: 366

(1) Eighty per cent of the total amount of regular benefits 367
that were payable to the individual pursuant to this section in 368
the individual's applicable benefit year; 369

(2) Twenty times the individual's average weekly benefit 370
amount that was payable to the individual pursuant to this section 371
for a week of total unemployment in the applicable benefit year. 372

(G) Division (F) of this section is effective on and after 373
February 22, 2009, and shall cease to be effective either on 374
December 6, 2009, or until the close of the last day of the week 375
ending three weeks prior to the last week for which federal 376
sharing is authorized under Section 2005(a) of the "American 377
Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 378
Stat. 115, whichever is later. Notwithstanding this division, the 379
extended benefits authorized by division (A)(3) of this section 380
shall continue to be paid to any individual who, as of December 381
26, 2009, has a balance of weeks remaining to be paid in the claim 382
until such weeks are exhausted or the individual is reemployed, 383
whichever occurs first, but in no event beyond May 29, 2010. 384

(H)(1) Except as provided in division (H)(2) of this section, 385
an individual eligible for extended benefits pursuant to an 386
interstate claim filed in any state under the interstate benefit 387
payment plan shall not be paid extended benefits for any week in 388

which an extended benefit period is not in effect in such state. 389

(2) Division (H)(1) of this section does not apply with 390
respect to the first two weeks for which extended compensation is 391
payable to an individual, as determined without regard to this 392
division, pursuant to an interstate claim filed under the 393
interstate benefit payment plan from the total extended benefit 394
amount payable to that individual in the individual's applicable 395
benefit year. 396

(3) Notwithstanding any other provisions of this section, if 397
the benefit year of any individual ends within an extended benefit 398
period, the remaining balance of extended benefits that the 399
individual would, but for this section, be entitled to receive in 400
that extended benefit period, with respect to weeks of 401
unemployment beginning after the end of the benefit year, shall be 402
reduced, but not below zero, by the product of the number of weeks 403
for which the individual received any amounts as trade 404
readjustment allowances within that benefit year, multiplied by 405
the individual's weekly benefit amount for extended benefits. 406

(I)(1) Whenever an extended benefit period is to become 407
effective in this state, as a result of a state "on" indicator, or 408
an extended benefit period is to be terminated in this state as a 409
result of a state "off" indicator, the director shall make an 410
appropriate public announcement. 411

(2) Computations required by division (A)(6) of this section 412
shall be made by the director, in accordance with the regulations 413
prescribed by the United States secretary of labor. 414

(J)(1)(a) The director shall promptly examine any application 415
for extended benefits filed and, under this section, determine 416
whether the application is to be allowed or disallowed and, if 417
allowed, the weekly and total extended benefits payable and the 418
effective date of the application. The claimant, the claimant's 419

most recent employer, and any other employer in the base period of 420
the claim upon which the extended benefits are based, and who was 421
chargeable for regular benefits based on such claim, shall be 422
notified of such determination. 423

(b) The determination issued to the most recent or other base 424
period employer shall include the total amount of extended 425
benefits that may be charged to the employer's account. Such 426
potential charge amount shall be an amount equal to one-fourth of 427
the regular benefits chargeable to the employer's account on the 428
regular claim upon which extended benefits are based except that, 429
effective January 1, 1979, the potential charge amount to the 430
state and its instrumentalities, its political subdivisions and 431
their instrumentalities, and Indian tribes shall be an amount 432
equal to one-half of the regular benefits chargeable to their 433
accounts on such claim. If regular benefits were chargeable to the 434
mutualized account, in lieu of an employer's account, then the 435
extended benefits which are based on such prior mutualized 436
benefits shall also be charged to the mutualized account. 437

(c) As extended benefits are paid to eligible individuals: 438

(i) One-half of such benefits shall be charged to an extended 439
benefit account to which reimbursement payments of one-half of 440
extended benefits, received from the federal government as 441
described in division (L) of this section, shall be credited; and 442
443

(ii) One-half of the extended benefits shall be charged to 444
the accounts of base period employers and the mutualized account 445
in the same proportion as was provided for on the regular claim; 446
or 447

(iii) The full amount of extended benefits shall be charged 448
to the accounts of the state and its instrumentalities, its 449
political subdivisions and their instrumentalities, and Indian 450

tribes. Employers making payments in lieu of contributions shall 451
be charged in accordance with division (B)(1) of section 4141.241 452
of the Revised Code; or 453

(iv) In the case of payments under division (A)(3) of this 454
section that are fully funded under Section 2005(a) of the 455
"American Recovery and Reinvestment Act of 2009," Pub. L. No. 456
111-5, 123 Stat. 115, none of the extended benefits shall be 457
charged to the accounts of base period employers or to the 458
mutualized account. 459

(d) If the application for extended benefits is disallowed, a 460
determination shall be issued to the claimant, which determination 461
shall set forth the reasons for the disallowance. Determinations 462
issued under this division, whether allowed or disallowed, shall 463
be subject to reconsideration and appeal in accordance with 464
section 4141.281 of the Revised Code. 465

(2) Any additional or continued claims, as described in 466
division (F) of section 4141.01 of the Revised Code, filed by an 467
individual at the beginning of, or during, the individual's 468
extended benefit period shall be determined under division ~~(E)~~(D) 469
of section 4141.28 of the Revised Code, and such determination 470
shall be subject to reconsideration and appeal in accordance with 471
section 4141.281 of the Revised Code. 472

(K) Notwithstanding division (B) of this section, payment of 473
extended benefits under this section shall not be made to any 474
individual for any week of unemployment in the individual's 475
eligibility period during which the individual fails to accept any 476
offer of suitable work, as defined in division (K)(2) of this 477
section, or fails to apply for any suitable work to which the 478
individual was referred by the director, or fails to actively 479
engage in seeking work, as prescribed in division (K)(4) of this 480
section. 481

(1) If any individual is ineligible for extended benefits for 482
any week by reason of a failure described in this division, the 483
individual shall be ineligible to receive extended benefits 484
beginning with the week in which the failure occurred and 485
continuing until the individual has been employed during each of 486
four subsequent weeks and the total remuneration earned by the 487
individual for this employment is equal to or more than four times 488
the individual's weekly extended benefit amount, and has met all 489
other eligibility requirements of this section, in order to 490
establish entitlement to extended benefits. 491

(2) For purposes of this section, the term "suitable work" 492
means, with respect to an individual, any work which is within the 493
individual's capabilities, provided that with respect to the 494
position all of the following requirements are met: 495

(a) It offers the individual gross average weekly 496
remuneration of more than the sum of: 497

(i) The individual's extended weekly benefit amount; and 498

(ii) The amount of supplemental unemployment compensation 499
benefits, as defined in section 501(c)(17)(D) of the "Internal 500
Revenue Code of 1954," 80 Stat. 1515, 26 U.S.C.A. 501, payable to 501
the individual for the week of unemployment. 502

(b) It pays equal to or more than the higher of: 503

(i) The minimum wage provided by section 6(a)(1) of the "Fair 504
Labor Standards Act of 1938," 91 Stat. 1245, 29 U.S.C.A. 206, 505
without regard to any exemption; or 506

(ii) Any applicable state or local minimum wage. 507

(c) It is offered to the individual in writing or is listed 508
with the employment office maintained or designated by the 509
director. 510

(3) Extended benefits shall not be denied under this division 511

to any individual for any week by reason of a failure to accept an offer of, or apply for suitable work if either of the following conditions apply:

(a) The failure would not result in a denial of benefits to a regular benefit claimant under section 4141.29 of the Revised Code to the extent that section 4141.29 of the Revised Code is not inconsistent with division (K)(2) of this section;

(b) The individual furnishes evidence satisfactory to the director that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination as to whether any work is suitable work with respect to this individual and whether the individual is ineligible or disqualified shall be based upon the meaning of "suitable work" and other provisions in section 4141.29 of the Revised Code.

(4) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during that week; and

(b) The individual provides tangible evidence to the director that the individual has engaged in the effort during that week.

(5) The director shall refer applicants for extended benefits to job openings that meet the requirements of divisions (E) and (F) of section 4141.29 of the Revised Code, and in the case of applicants whose prospects are determined not to be good under division (K)(3)(b) of this section to any suitable work which meets the criteria in divisions (K)(2) and (3)(a) of this section.

(6) Individuals denied extended or regular benefits under division (D)(1)(b) of section 4141.29 of the Revised Code because of being given a disciplinary layoff for misconduct must, after the date of disqualification, work the length of time and earn the

amount of remuneration specified in division (K)(1) of this 543
section, and meet all other eligibility requirements of this 544
section, in order to establish entitlement to extended benefits. 545

(L) All payments of extended benefits made pursuant to this 546
section shall be paid out of the unemployment compensation fund, 547
provided by section 4141.09 of the Revised Code, and all payments 548
of the federal share of extended benefits that are received as 549
reimbursements under section 204 of the "Federal-State Extended 550
Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 551
3306, shall be deposited in such unemployment compensation fund 552
and shall be credited to the extended benefit account established 553
by division (I) of this section. Any refund of extended benefits, 554
because of prior overpayment of such benefits, may be made from 555
the unemployment compensation fund. 556

(M) In the administration of the provisions of this section 557
which are enacted to conform with the requirements of the 558
"Federal-State Extended Unemployment Compensation Act of 1970," 84 559
Stat. 696, 26 U.S.C.A. 3306, the director shall take such action 560
consistent with state law, as may be necessary: 561

(1) To ensure that the provisions are so interpreted and 562
applied as to meet the requirements of the federal act as 563
interpreted by the United States department of labor; and 564

(2) To secure to this state the full reimbursement of the 565
federal share of extended benefits paid under this section that 566
are reimbursable under the federal act. 567

Sec. 4141.35. (A) If the director of job and family services 568
finds that any fraudulent misrepresentation has been made by an 569
applicant for or a recipient of benefits with the object of 570
obtaining benefits to which the applicant or recipient was not 571
entitled, and in addition to any other penalty or forfeiture under 572
this chapter, then the director: 573

(1) Shall within four years after the end of the benefit year 574
in which the fraudulent misrepresentation was made reject or 575
cancel such person's entire weekly claim for benefits that was 576
fraudulently claimed, or the person's entire benefit rights if the 577
misrepresentation was in connection with the filing of the 578
claimant's application for determination of benefit rights; 579

(2) Shall by order declare that, for each application for 580
benefit rights and for each weekly claim canceled, such person 581
shall be ineligible for two otherwise valid weekly claims for 582
benefits, claimed within six years subsequent to the discovery of 583
such misrepresentation; 584

(3) By order shall require that the total amount of benefits 585
rejected or canceled under division (A)(1) of this section be 586
repaid to the director before such person may become eligible for 587
further benefits, and shall withhold such unpaid sums from future 588
benefit payments accruing and otherwise payable to such claimant. 589
Effective with orders issued on or after January 1, 1993, if such 590
benefits are not repaid within thirty days after the director's 591
order becomes final, interest on the amount remaining unpaid shall 592
be charged to the person at a rate and calculated in the same 593
manner as provided under section 4141.23 of the Revised Code. When 594
a person ordered to repay benefits has repaid all overpaid 595
benefits according to a plan approved by the director, the 596
director may cancel the amount of interest that accrued during the 597
period of the repayment plan. The director may take action in the 598
courts of this state to collect benefits and interest as provided 599
in sections 4141.23 and 4141.27 of the Revised Code, in regard to 600
the collection of unpaid contributions, using the final repayment 601
order as the basis for such action. No administrative or legal 602
proceedings for the collection of such benefits or interest due 603
shall be initiated after the expiration of six years from the date 604
on which the director's order requiring repayment became final and 605

the amount of any benefits or interest not recovered at that time, 606
and any liens thereon, shall be canceled as uncollectible. 607

(4) May take action to collect benefits fraudulently obtained 608
under the unemployment compensation law of any other state or the 609
United States or Canada. Such action may be initiated in the 610
courts of this state in the same manner as provided for unpaid 611
contributions in section 4141.41 of the Revised Code. 612

(5) May take action to collect benefits that have been 613
fraudulently obtained from the director, interest pursuant to 614
division (A)(3) of this section, and court costs, through 615
attachment proceedings under Chapter 2715. of the Revised Code and 616
garnishment proceedings under Chapter 2716. of the Revised Code. 617

(B) If the director finds that an applicant for benefits has 618
been credited with a waiting period or paid benefits to which the 619
applicant was not entitled for reasons other than fraudulent 620
misrepresentation, the director shall: 621

(1)(a) Within six months after the determination under which 622
the claimant was credited with that waiting period or paid 623
benefits becomes final pursuant to section 4141.28 of the Revised 624
Code, or within three years after the end of the benefit year in 625
which such benefits were claimed, whichever is later, by order 626
cancel such waiting period and require that such benefits be 627
repaid to the director or be withheld from any benefits to which 628
such applicant is or may become entitled before any additional 629
benefits are paid, provided that the repayment or withholding 630
shall not be required where the overpayment is the result of the 631
director's correcting a prior decision due to a typographical or 632
clerical error in the director's prior decision, or an error in an 633
employer's report under division ~~(G)~~(F) of section 4141.28 of the 634
Revised Code. 635

(b) The limitation specified in division (B)(1)(a) of this 636

section shall not apply to cases involving the retroactive payment 637
of remuneration covering periods for which benefits were 638
previously paid to the claimant. However, in such cases, the 639
director's order requiring repayment shall not be issued unless 640
the director is notified of such retroactive payment within six 641
months from the date the retroactive payment was made to the 642
claimant. 643

(2) The director may, by reciprocal agreement with the United 644
States secretary of labor or another state, recover overpayment 645
amounts from unemployment benefits otherwise payable to an 646
individual under Chapter 4141. of the Revised Code. Any 647
overpayments made to the individual that have not previously been 648
recovered under an unemployment benefit program of the United 649
States may be recovered in accordance with section 303(g) of the 650
"Social Security Act" and sections 3304(a)(4) and 3306(f) of the 651
"Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 652
3301 to 3311. 653

(3) If the amounts required to be repaid under division (B) 654
of this section are not recovered within three years from the date 655
the director's order requiring payment became final, initiate no 656
further action to collect such benefits and the amount of any 657
benefits not recovered at that time shall be canceled as 658
uncollectible. 659

(C) The appeal provisions of sections 4141.281 and 4141.282 660
of the Revised Code shall apply to all orders and determinations 661
issued under this section, except that an individual's right of 662
appeal under division (B)(2) of this section shall be limited to 663
this state's authority to recover overpayment of benefits. 664

(D) If an individual makes a full repayment or a repayment 665
that is less than the full amount required by this section, the 666
director shall apply the repayment to the mutualized account under 667
division (B) of section 4141.25 of the Revised Code, except that 668

the director shall credit the repayment to the accounts of the 669
individual's base period employers that previously have not been 670
credited for the amount of improperly paid benefits charged 671
against their accounts based on the proportion of benefits charged 672
against the accounts as determined pursuant to division (D) of 673
section 4141.24 of the Revised Code. 674

The director shall deposit any repayment collected under this 675
section that the director determines to be payment of interest or 676
court costs into the unemployment compensation special 677
administrative fund established pursuant to section 4141.11 of the 678
Revised Code. 679

Sec. 4143.01. As used in this chapter: 680

(A) "Affected employee" means any person who may reasonably 681
be expected to experience an employment loss as a result of a 682
proposed mass layoff, worksite closing, or transfer of operations 683
undertaken by the person's employer. "Affected employee" includes 684
an employee who does not work from a single site of employment but 685
who reports to a single site of employment or to supervisory 686
personnel who report to such a site and an employee who 687
experiences employment loss as a foreseeable result of the 688
downsizing at a single site of the employee's employer. 689

(B)(1) "Employment loss" means either of the following: 690

(a) An employment termination other than a discharge for 691
cause or voluntary departure, except that an employee who 692
voluntarily departs from employment during the notice period in 693
anticipation of a mass layoff, worksite closing, or transfer of 694
operations shall be considered to have experienced an employment 695
loss under this chapter; 696

(b) A layoff exceeding four months. 697

(2) "Employment loss" does not include a mass layoff, 698

worksite closing, or transfer of operations that is the result of 699
the relocation or consolidation of part or all of the employer's 700
business if, prior to the layoff, closing, or transfer the 701
employer offers the employee either of the following options: 702

(a) A reassignment to a different site of employment within a 703
reasonable commuting distance, resulting in no more than a 704
one-month break in employment; 705

(b) A reassignment to any other site of employment, 706
regardless of distance, resulting in no more than a two-month 707
break in employment, but only if the employee accepts the offer 708
within thirty days of either the offer or of the mass layoff, 709
worksite closing, or transfer of operations, whichever is later. 710

(C) "Employer" means any business enterprise that employs 711
fifty or more full-time or part-time employees. In that it 712
directly owns and operates its corporate subsidiary, a parent 713
corporation is an employer for purposes of this chapter. 714

(D) "Mass layoff" means a reduction in workforce resulting in 715
an employment loss at a single site of employment of twenty-five 716
or more full-time or part-time employees in a thirty-day period, 717
and that reduction in workforce is not the result of a worksite 718
closing or transfer of operations. 719

(E) "Political subdivision" means a county, township, or 720
municipal corporation in this state. 721

(F) "Representative" means an exclusive representative of 722
employees within the meaning of section 9(a) of the "National 723
Labor Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., and the 724
"Railway Labor Act," 44 Stat. 577, 45 U.S.C. 151 et seq. 725

(G) "Transfer of operations" means the removal of all, or 726
substantially all, of the operations of a single site of 727
employment to a different location that is at least fifty miles 728
away, resulting in employment loss of twenty-five or more 729

full-time or part-time employees. 730

(H) "Worksite closing" means the permanent or temporary 731
shutdown of a single site of employment, or one or more facilities 732
or operating units, resulting in an employment loss of twenty-five 733
or more full-time or part-time employees. 734

Sec. 4143.02. (A)(1) Except as provided in section 4143.05 of 735
the Revised Code, an employer shall not order a mass layoff, 736
worksite closing, or transfer of operations unless, at least 737
ninety days before the order takes effect, the employer gives 738
written notice of the mass layoff, worksite closing, or transfer 739
of operations in accordance with this section and section 4143.03 740
of the Revised Code. The employer shall give the notice to each of 741
the following persons or entities: 742

(a) An affected employee; 743

(b) The representative of any affected employee; 744

(c) The department of job and family services; 745

(d) The local workforce policy boards established under 746
section 6301.06 of the Revised Code for the locality within which 747
the mass layoff, worksite closing, or transfer of operations will 748
occur; 749

(e) The chief elected official of the political subdivision 750
within which the mass layoff, worksite closing, or transfer of 751
operations will occur. 752

(2) If the mass layoff, worksite closing, or transfer of 753
operations will result in employment loss to two hundred fifty or 754
more employees, the employer shall give the written notice 755
required under division (A)(1) of this section at least one 756
hundred twenty days before the order for the mass layoff, worksite 757
closing, or transfer of operations takes effect. 758

(B) Multiple employment losses that occur at a single site of 759

employment within a one-hundred-eighty-day period shall be 760
aggregated for purposes of determining whether a mass layoff, 761
worksite closing, or transfer of operations would occur requiring 762
notice under this chapter, unless the employer can show that the 763
individual employment losses arose from separate and distinct 764
causes. 765

(C) When part or all of an employer's business is sold, the 766
seller shall be responsible for providing notice under this 767
section up to and including the effective date of the sale. After 768
the effective date of the sale, the purchaser shall be responsible 769
for providing the notice required by this section. 770

(D) An employer may satisfy the requirements of this section 771
either by including the requisite notice in the affected 772
employee's paycheck or mailing the notice to the affected 773
employee's last known address by either first class or certified 774
mail. 775

Sec. 4143.03. The written notice required under section 776
4143.02 of the Revised Code shall include all items that are 777
required under the "Worker Adjustment and Retraining Notification 778
Act," 102 Stat. 890, 29 U.S.C. 2101, et seq., and all of the 779
following information: 780

(A) The number of affected employees and the date or dates on 781
which the mass layoff, worksite closing, or transfer of operations 782
will occur; 783

(B) The reason for the mass layoff, worksite closing, or 784
transfer of operations; 785

(C) Employment opportunities that are available to affected 786
employees at another establishment operated by the employer and 787
the location and benefits, pay, and other terms and conditions of 788
that other employment; 789

(D) Any rights the employee has relating to the employment 790
loss with respect to wages, severance pay, benefits, pension, and 791
other terms of employment, including any rights based on a 792
collective bargaining agreement or the employer's policy; 793

(E) Any rights the employee has regarding access to the rapid 794
response team created under section 4143.04 of the Revised Code, 795
including the right to receive information, educational materials, 796
referrals, and counseling from the team as provided for in 797
division (B)(3) of section 4143.04 of the Revised Code. 798

Sec. 4143.04. (A) There is hereby created within the 799
department of job and family services a rapid response team. The 800
team shall organize meetings as necessary to provide employers and 801
representatives an opportunity to obtain information about 802
dislocated worker services that are available locally to eligible 803
applicants. 804

(B) In response to a mass layoff, worksite closing, or 805
transfer of operations, the team shall do all of the following: 806

(1) Offer to meet with the employer to discuss available 807
public programs that may make it possible to delay or prevent the 808
mass layoff, worksite closing, or transfer of operations, 809
including economic development incentive and workforce development 810
programs; 811

(2) Facilitate cooperation between the employer and affected 812
employees to most effectively utilize public programs that may 813
make it possible to delay or prevent the mass layoff, worksite 814
closing, or transfer of operations, or to assist employees if it 815
is not possible to delay or prevent the mass layoff, worksite 816
closing, or transfer of operations; 817

(3) Meet on-site with employees as the team determines 818
necessary to provide those employees with information, educational 819

materials, referrals, and counseling regarding all of the 820
following matters: 821

(a) The employees' rights with respect to wages, severance 822
pay, benefits, pensions, and other terms of employment; 823

(b) Retraining programs; 824

(c) Job search assistance; 825

(d) Unemployment compensation benefits; 826

(e) Available public programs that may make it possible to 827
delay or prevent the mass layoff, worksite closing, or transfer of 828
operations, including economic development incentive and workforce 829
development programs; 830

(4) Coordinate with any rapid response activities 831
administered by the state under the "Workforce Investment Act of 832
1998," 112 Stat. 936, 29 U.S.C. 2801. 833

Sec. 4143.05. (A) This chapter shall not apply to a mass 834
layoff, worksite closing, or transfer of operations if the action 835
involves a temporary facility or is the result of the completion 836
of a particular project or undertaking, and the affected employees 837
were hired with the understanding that their employment was 838
limited to the duration of the facility, project, or undertaking. 839

(B)(1) An employer may order a mass layoff, worksite closing, 840
or transfer of operations without giving at least the ninety-day 841
notice required under division (A) of section 4143.02 of the 842
Revised Code if any one of the following situations applies: 843

(a) As of the time that notice would have been required, the 844
employer was actively seeking capital or business that, if 845
obtained, would have enabled the employer to avoid or postpone the 846
mass layoff, worksite closing, or transfer of operations, and the 847
employer reasonably and in good faith believed that giving the 848
required notice would have precluded the employer from obtaining 849

the needed capital or business; 850

(b) The mass layoff, worksite closing, or transfer of 851
operations is caused by business circumstances that were not 852
reasonably foreseeable at the time that notice would have been 853
required; 854

(c) The mass layoff, worksite closing, or transfer of 855
operations is caused by any form of physical calamity, natural 856
disaster, or act of war. 857

(2) An employer who is exempt under division (B)(1) of this 858
section from providing at least a ninety-day notice shall give as 859
much notice of the mass layoff, worksite closing, or transfer of 860
operations as is practicable and shall otherwise comply with the 861
requirements of sections 4143.02 and 4143.03 of the Revised Code. 862
Additionally, the employer shall include as part of the notice a 863
brief statement explaining the reason for not complying with the 864
time requirements of section 4143.02 of the Revised Code. 865

Sec. 4143.06. (A) Any person or entity entitled to notice 866
under section 4143.02 of the Revised Code may file a complaint 867
with the department of job and family services alleging a 868
violation of this chapter within one hundred eighty days after the 869
alleged violation. 870

(B) The department may investigate complaints, issue 871
subpoenas, and determine liabilities and civil penalties in 872
accordance with sections 4143.07 and 4143.08 of the Revised Code. 873
During the department's investigation of a complaint, the 874
complaining party shall not proceed with a civil action unless 875
more than one hundred eighty days have passed since the complaint 876
was filed with the department and the complaining party files with 877
the department a request to withdraw the complaint. Any complaint 878
that is withdrawn for this purpose cannot be re-filed. 879

(C) The director of job and family services may adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to administer this section. 880
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Sec. 4143.07. (A) Except as provided in section 4143.06 of the Revised Code, an employee who is entitled to notice under section 4143.02 of the Revised Code, or a representative, the department of job and family services, the attorney general, or a political subdivision acting on the employee's behalf, may file a civil action in an appropriate court alleging a violation of this chapter. 883
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(B) In a civil action brought under this section, the court shall order the employer to pay all of the following damages and costs to each affected employee upon finding that the employer violated this chapter: 890
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(1) Double back pay for each calendar day of the violation; 894

(2) The value of benefits from the employer's employee benefit plan for the entire advance notification period, including the cost of medical expenses that the employee incurred during the employment loss that would have been covered under the employee benefit plan if the employment loss had not occurred; 895
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(3) Other economic damages and exemplary damages suffered by the affected employee and shown by a preponderance of the evidence to have been caused by an employer's violation of this chapter; 900
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(4) Reasonable attorney's fees and costs, if the affected employee is the plaintiff. 903
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(C) The court shall not use an employee's acceptance of severance payments to offset an award of damages if those payments satisfy either of the following criteria: 905
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(1) The payments were voluntary and unconditionally paid in an amount that is less than the value of the wages and benefits to 908
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which the affected employee was entitled during the advance 910
notification period; 911

(2) The payments were made pursuant to contractual 912
obligations of the employer. 913

(D) Any claim brought under this section shall be brought 914
within three years of the alleged violation. 915

(E) As used in this section: 916

(1) "Double back pay" means the higher of the following: 917

(a) The average regular rate of compensation received by the 918
affected employee from the employer during the last three years of 919
the employee's employment; 920

(b) The regular rate of compensation received by the affected 921
employee as of the date of the employment loss. 922

(2) "Benefit plan" means a plan under section 3(3) of the 923
"Employment Retirement Income Security Act," 88 Stat. 839, 29 924
U.S.C. 1001, et seq. 925

Sec. 4143.08. (A) The attorney general and the department of 926
job and family services may file a civil action in an appropriate 927
court on behalf of the state or political subdivision alleging a 928
violation of this chapter. A political subdivision entitled to 929
notice under section 4143.02 of the Revised Code may file a civil 930
action in an appropriate court on its own behalf. 931

(B) Upon finding that an employer has failed to notify the 932
department of job and family services or the appropriate political 933
subdivision as required under section 4143.02 of the Revised Code, 934
the court shall order the employer to pay a civil penalty in one 935
of the following amounts: 936

(1) Five hundred dollars for each calendar day of the 937
violation multiplied by the number of employees who suffered an 938

employment loss as a result of the mass layoff, worksite closing, 939
or transfer of operations; 940

(2) If the employer acted in bad faith through intentional, 941
willful, or reckless conduct in violation of this chapter or to 942
avoid application of this chapter, one thousand dollars for each 943
calendar day of the violation multiplied by the number of 944
employees who suffered an employment loss as a result of the mass 945
layoff, worksite closing, or transfer of operations. 946

(C) Any action filed pursuant to this section shall be filed 947
within three years of the alleged violation. 948

Sec. 4143.09. (A) All agreements in which an employee waives 949
the employee's rights under this chapter are voidable before, 950
during, and within thirty days after the notice period specified 951
in section 4143.02 of the Revised Code, unless the employee 952
receives payment in an amount that meets or exceeds the wages and 953
value of benefits to which the employee would have been entitled 954
throughout the advance notification period. If an employee elects 955
to void the agreement, the employee shall return the lesser 956
amounts paid by the employer within fourteen days after voiding 957
the agreement. 958

(B) An employee's waiver of claims or acceptance of any 959
severance payment does not absolve or mitigate an employer's 960
obligation to provide notice to other persons or entities entitled 961
to notice under this chapter. 962

Section 2. That existing sections 4141.28, 4141.301, and 963
4141.35 of the Revised Code are hereby repealed. 964